when WorldCom does not obtain other operator services from Verizon.[598] WorldCom points out that Verizon makes no claim that WorldCom's proposal is technically infeasible.[599] WorldCom asserts that Verizon has failed to show that it would be unable to bill WorldCom for busy line verification and emergency interrupt calls that are not routed over trunks that terminate in Verizon's operator services/directory assistance switches.[600] WorldCom maintains that, because WorldCom operators identify themselves when requesting busy line verification or emergency interrupt from Verizon operators, routing those calls over local interconnection trunks would not preclude Verizon from billing WorldCom for those calls.[601]

180. Verizon argues that it can identify, track, and bill for busy line verification and emergency interrupt calls only if they are routed over dedicated trunks that terminate in Verizon's operator services/directory assistance switches.[602] Verizon states that routing busy line verification and emergency interrupt calls over local interconnection trunks using local exchange routing guide codes, as WorldCom proposes, would result in these calls being routed to Verizon's tandem switches. Then, according to Verizon, the calls would be directed to Verizon's operator services/directory assistance switches without any identification of the originating carrier or call detail. Verizon states that routing over dedicated trunks would ensure that the calls are routed to the appropriate switch with the information needed to bill and process the request.[603]

c. Discussion

181. We adopt WorldCom's contract language on this issue, subject to the modifications discussed below.[604] In adopting WorldCom's approach, we note that neither party claims that the other's proposal is inconsistent with section 251 of the Act or the Commission's

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598 WorldCom Brief at 61; WorldCom Reply at 54.

599 WorldCom Brief at 61.

600 WorldCom Reply at 54-55.

601 *Id.* at 55.

602 Verizon NA Brief at 66-67, citing Verizon Ex. 9 (Direct Testimony of D. Albert & P. D'Amico), at 22.

603 Verizon NA Brief at 66-67; Verizon NA Reply at 34-35.

604 *See* WorldCom's November Proposed Agreement to Verizon, Part C, Attach. IV, §§ 1.6.2 (second sentence), & 1.6.4. We note that Verizon has accepted the following language from WorldCom's proposal: sections 1.6.1 (first sentence), 1.7-1.7.2, and 6.1-6.6.

rules implementing section 251.[605] Because we find no such inconsistency, we are required to select the approach that we find more reasonable.[606]

182. As an initial matter, we find, consistent with WorldCom's uncontradicted testimony, that there will be only "minimal volumes" of busy line verification or emergency interrupt calls between Verizon and WorldCom.[607] We also find that establishing separate trunks for these calls, as Verizon proposes, would impose costs on WorldCom that are disproportionate to the problem sought to be solved.[608] Carriers typically establish separate trunks when traffic levels are sufficient to make separate trunks cost-effective. Establishing separate trunks to carry only minimal volumes of calls would impose disproportionate costs on WorldCom compared to the benefits of Verizon's proposed solution.[609]

183. We recognize that Verizon is entitled to obtain payment from WorldCom for the busy line verification and emergency interrupt services that its operators perform for WorldCom, and that Verizon's existing systems do not automatically track and bill for these calls. We believe, however, that measures less costly than establishing separate trunking may be available to ensure that Verizon receives appropriate payment. For instance, WorldCom could pay Verizon a predetermined amount monthly for each of its customers that do not receive other operator services from Verizon, based on studies of other customers' busy line verification and emergency interrupt calling patterns. Alternatively, WorldCom might be able to establish procedures to identify and track busy line verification or emergency interrupt calls to Verizon that are not routed to a Verizon operator services/directory assistance switch, and to pay Verizon for those calls without being billed.[610]

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605 *See* 47 U.S.C. § 252(c)(1). Under the Communications Act and the Commission's rules, Verizon must offer busy line verification and emergency interrupt on a nondiscriminatory basis to all providers of telephone exchange or telephone toll service. *See* 47 U.S.C. § 251(b)(3); *Local Competition Second Report and Order*, 11 FCC Rcd at 19499, para. 111.

606 *See* 47 U.S.C. § 252(c)(2); 47 C.F.R. § 51.807; *Local Competition First Report and Order*, 11 FCC Rcd at 16130-31, para. 1292.

607 WorldCom Ex. 26 (Rebuttal Testimony of E. Caputo), at 5.

608 *See* WorldCom Ex. 26, at 5.

609 *See id.*; *see also* Verizon Ex. 4 (Direct Testimony of D. Albert & P. D'Amico), at 21 (claiming that without the right to disconnect excess trunk groups when they are significantly underutilized, Verizon will not be able to manage its network in an efficient manner). We note that Verizon and WorldCom agree that, when WorldCom purchases Verizon's overall operator services package, all operator services calls will be routed over separate trunks established between the parties' respective operator bureaus. *See* WorldCom's November Proposed Agreement to Verizon, Part C, Attach. IV, §§ 6.1 & 6.4.

610 We note that WorldCom states that its operator platform generates sufficient information for it to bill the WorldCom customer for these calls. This information might assist WorldCom in identifying and tracking these calls. WorldCom Ex. 52 (Response to FCC Record Request No. 2), at 2.

184. We urge Verizon and WorldCom to explore these and other potential solutions to this problem. In the event the parties are unable to agree on a solution and on appropriate contract language, we will select the most reasonable proposal in connection with our review of these parties' final contract language. Consistent with our holding here, we direct the parties to file conforming language specifying that, when WorldCom does not purchase operator services other than busy line verification and emergency interrupt from Verizon, WorldCom shall have the option of routing its busy line verification and emergency interrupt traffic over the local interconnection trunk, using the appropriate codes in the local exchange routing guide. Furthermore, we agree with Verizon that the terms relating to trunking arrangements for operator services and directory assistance should be included in the portion of the interconnection agreement that deals with those services.[611]

185. Verizon and WorldCom agree that the interconnection agreement should define operator services as "(1) operator handling for call completion (*e.g.*, collect calls); (2) operator or automated assistance for billing after the subscriber has dialed the called number (*e.g.*, credit card calls); and (3) special services (*e.g.*, [busy line verification, emergency interrupt], Emergency Agency Call)."[612] In finalizing their interconnection agreement terms relating to trunking arrangements for operator service, Verizon and WorldCom shall make clear that WorldCom need not establish a separate trunk for routing busy line verification or emergency interrupt when WorldCom does not purchase operator services other than special services from Verizon.[613]

15. Issue IV-11 (Usage Measurement)

a. Introduction

186. WorldCom and Verizon disagree on how to determine the jurisdiction of traffic that lacks calling party number (CPN) information. Carriers use this information to ascertain whether calls are subject to access charges or reciprocal compensation. According to Verizon, certain older private branch exchanges (PBXs) do not have the capability to record and exchange CPN.[614] The carriers agree that they will exchange this data for at least 90 percent of the calls but disagree on what assumptions should be made when a party passes CPN information on less than 90 percent of its originating calls. We adopt WorldCom's proposal.

b. Positions of the Parties

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[611] Verizon NA Brief at 68 n.80; Verizon Ex. 26 (Rebuttal Testimony of D. Albert & P. D'Amico), at 18-19.

[612] *See June 14, 2002 Joint Definitional Submission*, Attach. at 24.

[613] *See, e.g.*, Verizon NA Brief at 67 (pointing out inconsistencies within WorldCom's proposed contract language). We note that WorldCom has moved to strike the contract language Verizon most recently proposed regarding trunking arrangements for operator services and directory assistance. WorldCom Motion to Strike, Ex. B at 50-52. Because we do not adopt that language, we deny as moot the portion of WorldCom's motion relating to this issue.

[614] *See* Tr. at 2718-19.

187. WorldCom argues that its proposal of using percent local usage (PLU) information is consistent with the general industry practice of using estimates when carriers are unable to record traffic.[615] According to WorldCom, for example, Verizon admits to using PLU factors provided by WorldCom, rather than CPN, to determine how much traffic originated by WorldCom is subject to reciprocal compensation.[616] Thus, WorldCom argues, it has simply proposed that the parties use the same factors that Verizon already uses to determine call jurisdiction.[617]

188. WorldCom asserts that Verizon seeks a financial windfall by proposing to charge access rates for all traffic below the 90 percent CPN threshold, regardless of the jurisdiction of the call.[618] WorldCom contends that Verizon's proposal punishes it for circumstances beyond its control because, as Verizon's witness admitted, WorldCom has no control over the lack of CPN when business customers use older customer premise equipment (CPE) that prevents CPN passage.[619] Moreover, WorldCom argues that Verizon's true concern is that, unlike WorldCom, an unscrupulous competitive LEC opting into this agreement might provide fictitious PLU information to avoid paying access charges.[620] WorldCom argues that it should not be penalized for the actions that other competitive LECs might take.[621]

189. Verizon argues that its proposal -- to assess access charges for that WorldCom traffic falling below the 90 percent CPN threshold -- provides reciprocal rights, has been agreed to by multiple carriers in Virginia, and is consistent with several recent state commission proceedings.[622] According to Verizon, since WorldCom agreed to the 90 percent threshold, WorldCom's substitute billing information should be unnecessary since it presumably would not have agreed to a threshold it cannot meet.[623]

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615 WorldCom Brief at 62, citing WorldCom Ex. 8 (Direct Testimony of M. Argenbright), at 10.

616 WorldCom Brief at 62, citing Tr. at 2714.

617 WorldCom Brief at 62. Moreover, WorldCom argues that since Verizon does not use CPN to determine jurisdiction, it should be indifferent to whether CPN is passed. *Id.* at 63.

618 WorldCom Brief at 62-63, citing Tr. at 2717; WorldCom Ex. 8, at 10. WorldCom also argues that Verizon's proposal is a thinly veiled attempt to impose the highest possible rates for traffic to which reciprocal compensation rates should apply. WorldCom Reply at 56.

619 WorldCom Brief at 63, citing Tr. at 2718-19.

620 WorldCom Brief at 63, citing Tr. at 2725-26.

621 WorldCom Brief at 63-64.

622 Verizon NA Brief at 68-69, citing Verizon Ex. 78 (response to record request); Case 01-C-0095, *AT&T Petition for Arbitration to Establish an Interconnection Agreement with Verizon*, Order Resolving Arbitration Issues (issued July 30, 2001) (*New York Commission AT&T Arbitration Order*); and *Sprint Order*, D.T.E. 00-54 (2000) (*Massachusetts DTE Sprint Arbitration Order*).

623 Verizon NA Brief at 69, citing Tr. at 2737-38.

c. Discussion

190. We adopt WorldCom's proposal because it offers a reasonable solution to address those situations in which the parties are unable to pass CPN on 90 percent of their exchanged traffic.[624] Other than indicating concern about unnamed competitive LECs "stripping off" CPN to receive reciprocal compensation for a call subject to access charges,[625] Verizon offers no real criticism of WorldCom's proposal. However sympathetic we may be to Verizon's concerns, we note that less drastic measures are available to it (*e.g.*, filing a complaint with the Virginia Commission). We decline to burden WorldCom merely because of the potential for unlawful behavior by other competitive LECs.[626]

191. Verizon argues in essence that it is preferable to ignore the jurisdiction of calls exchanged by the parties, calls that have been recorded and are subject to audit and, instead, to assume that all unrecorded traffic is subject to access charges. We disagree. Our record is clear that certain older, multi-line business CPE is unable to record CPN mechanically,[627] WorldCom has no residential customers in Virginia[628] and, therefore, may be disproportionately affected, or punished, by Verizon's proposal through no fault of its own.[629] For these reasons, we adopt WorldCom's proposed language.

16. Issue IV-37 (Meet-Point Billing Arrangements)

a. Introduction

192. Both Verizon and WorldCom propose language governing meet-point billing. Meet-point billing dictates how the carriers will apportion access charges when a call to or from an interexchange carrier (IXC) is originated or terminated by a WorldCom end user and WorldCom's switch subtends the Verizon access tandem.[630] The parties have agreed to the multiple-bill, single tariff method, under which each party bills the IXC according to its own

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624 Specifically, we adopt WorldCom's November Proposed Agreement, Part C, Attach. IV, §§ 7.1 through 7.6; and reject Verizon's November Proposed Agreement to WorldCom, Part C, Attach. IV, §§ 6.1 through 6.4.. We therefore find that WorldCom's motion to strike Verizon's revised contract language for this issue is moot. *See* WorldCom Motion to Strike, Ex. A at 52-54.

625 *See* Tr. at 2721.

626 *See* Tr. at 2725-26 (Verizon's witness stating that WorldCom would never manipulate or provide a false number to Verizon but that Verizon is worried that some other carrier might).

627 *See* Tr. at 2718.

628 *See* Tr. at 2719.

629 *See* Tr. at 2719-20, 2726-27.

630 *See* Verizon Ex. 9 (Direct Testimony of D. Albert, P. D'Amico), at 27.

access tariff.[631] The parties differ as to whose language should serve as the template on this subject. The parties also continue to have substantive differences as to: (1) whether either party should be liable if billing records are lost and cannot be recreated to the customer's satisfaction, (2) the form in which the carriers must exchange data, and (3) whether the contract should contain a special audit provision governing meet-point billing.

b. Positions of the Parties

193. WorldCom argues that Verizon does not hold the "trump card" as to which party's language should serve as a template.[632] WorldCom argues that the party responsible for supplying the records should be liable for their loss since that party has complete control over the creation and transmittal of the record.[633] With respect to the form in which data must be exchanged, WorldCom argues that we should adopt its language requiring data production by cartridge or electronic data transfer (EDT), because Verizon has not claimed these methods are infeasible or unduly burdensome.[634] Finally, with respect to a special audit provision to govern meet-point billing, WorldCom points out that the proposed agreements already contain a general audit provision, which would adequately cover meet-point billing.[635]

194. Like WorldCom, Verizon argues that its meet-point language should serve as the template for meet-point billing arrangements.[636] On the subject of liability for lost records, Verizon is concerned that, if an IXC learns that the interconnection agreement provides for either WorldCom or Verizon (depending upon which carrier lost the data) to be responsible for associated lost revenue, the IXC will simply refuse to pay the bill.[637] Next, Verizon argues that its proposed sections 9.8 and 9.9 give the parties the flexibility to use electronic media for the transmission of data.[638] The Verizon witness agreed that if the contract already contains an audit provision, a special meet-point audit provision might not be necessary.[639]

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[631] *See* Tr. at 2742-43, 2747-48, 2753-54; Verizon Ex. 9, at 27; WorldCom Brief at 66.

[632] *See* Tr. at 2732.

[633] WorldCom Brief at 66-67.

[634] *Id.* at 66.

[635] *Id.* at 67.

[636] *See* Tr. at 2727-29; Verizon Network Architecture (NA) Brief at 72.

[637] *See* Tr. at 2730-31.

[638] Verizon NA Brief at 71-72.

[639] *See* Tr. at 2752-53.

c. Discussion

195. With the clarifications discussed below, we adopt WorldCom's proposed language. In addition to the specific provisions we discuss below, we adopt WorldCom's template.[640] Notwithstanding each party's reluctance to deviate from its own form language regarding meet-point billing, the parties ultimately differed on only a few substantive issues. In light of this, and our decision on the three matters specifically contested, we believe that WorldCom's language provides a better starting point because it requires less adjustment to comply with our holdings.

196. With respect to liability for lost records, we agree with WorldCom that the party responsible for the data loss should bear responsibility if the data cannot be recreated to the satisfaction of the IXC, which is the bill-paying customer of these two parties.[641] In addition, although neither party's witness was able to testify as to the existing contract provision on this subject,[642] WorldCom's language appears to be consistent with the current agreement.[643] We note that, although Verizon argues that IXCs may refuse to pay if they learn of this provision, it offered no evidence that the existing language has led to any difficulties in practice.

197. With respect to the form of data exchange, we will not order at this time that meet-point-billing data be exchanged on cartridge or via EDT.[644] Although WorldCom correctly asserts that Verizon has claimed neither infeasibility nor undue burden from these methods, WorldCom itself presented no compelling argument as to why magnetic tape, the method currently in use, is unacceptable or why EDT or some other method should be mandatory. Under the existing agreement, the parties are required to provide "switched access detail usage data (category 1101XX records) on magnetic tape *or via such other media as the Parties may agree to*."[645] In the absence of support for altering the status quo, we find it reasonable for the carriers to continue to exchange information in the format they currently do so, until such time as they may agree on a new format. However, because WorldCom's proposed language anticipates mutual agreement before the parties migrate to EDT, and does not set any time certain for the parties to begin exchanging records via EDT, its language is acceptable if the parties insert the

[640] Specifically, with the modifications discussed, we adopt WorldCom's November Proposed Agreement to Verizon, Part C, Attach. I, § 4.9, and we reject Verizon's November Proposed Agreement to WorldCom, Interconnection Attach., § 9.

[641] *See* WorldCom's November Proposed Agreement to Verizon, Part C, Attach I, §§ 4.9.14, 4.9.15.

[642] *See* Tr. at 2748.

[643] *See* WorldCom Petition, Ex. D, Part C, Attach. VIII, § 3.1.3.11.

[644] "Cartridge" does not appear to be a defined term. The contract language referenced below suggests that providing information on cartridge is *not* a form of EDT.

[645] *See* WorldCom Petition, Ex. D (Interconnection Agreement Governing Current Relations), Part C, Attach. VIII, §§ 3.1.3.8, 3.1.3.9 (emphasis added).

term "magnetic tape" where the word "cartridge" appears in sections 4.9.5, 4.9.11 and 4.9.12. We direct the parties to do so.

198. On the subject of audits, Verizon's witness conceded that the meet-point audit provision might be cumulative to the general audit section,[646] and Verizon did not address the subject of audits in either of its post-hearing briefs.[647] Each party's proposed agreement contains a general audit provision.[648] Accordingly, we find that a separate meet-point audit provision is unnecessary, could be cumulative, and, if inconsistent with the general audit section, provides a potential source of future dispute.

17. Issues V-1/V-8 (Competitive Access Service)[649]

a. Introduction

199. AT&T and Verizon disagree about whether AT&T may obtain interconnection, pursuant to section 251(c)(2) of the Act, in order to provide competitive access service. As a related matter, the parties disagree about whether AT&T may provide this service using UNEs, obtained at cost-based UNE rates, pursuant to section 251(c)(3) of the Act. AT&T argues it may purchase UNEs to provide its proposed access service, but Verizon would have AT&T purchase Verizon's access service out of its tariffs. As set forth below, we reject AT&T's proposal.[650]

b. Positions of the Parties

200. AT&T proposes contract language that would permit it to interconnect with Verizon, pursuant to section 251(c)(2) of the Act, in order to provide competitive access service that would allow interexchange carriers (IXCs) to reach end users who do not receive their local exchange service from AT&T.[651] AT&T argues that section 251(c)(2) permits interconnection

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646 *See* Tr. at 2752-53.

647 *See* Verizon NA Brief at 70-72; Verizon NA Reply at 36.

648 *See* WorldCom's November Proposed Agreement to Verizon, Part A, § 4; Verizon's November Proposed Agreement to WorldCom, Part A, § 7.

649 While Issues V-1 and V-8 are distinct, the parties brief them in tandem; they raise interrelated issues and pertain to the same section 6 of the agreement, proposed by AT&T. Thus, we will treat them as one, for purposes of this Order.

650 AT&T's November Proposed Agreement to Verizon, Schedule 4, Part B, §§ 4, 6.0, 6.1, 6.2, 6.3, 6.4, 6.5, 6.6.

651 *See* AT&T's November Proposed Agreement to Verizon, Schedule 4, Part B, §§ 6.0, 6.1, 6.2, 6.3, 6.4, 6.5. AT&T's proposal reads in part, "Upon request from AT&T, the Parties will establish two-way competitive-tandem trunk groups separate from ESIT trunk groups, to carry traffic between AT&T's switched access customer connected to AT&T's switch and Verizon's local customers. Such trunks will be established in GR-394-CORE format. The Parties agree that the following provisions will apply to the switching and transport of competitive-tandem traffic: Verizon will provide to AT&T UNE local switching, tandem switching and transport of Feature Group D calls from (continued….)

for this purpose,[652] and that the Commission has explicitly found that "providers of competitive access services are eligible to receive interconnection pursuant to section 251(c)(2)."[653] AT&T also argues that the Commission has held that requesting carriers may obtain UNEs pursuant to section 251(c)(3) of the Act to provide any telecommunications service, including exchange access service,[654] and that Verizon therefore should not be permitted to place restrictions on AT&T's use of the UNEs that it purchases.[655] AT&T asserts that Commission precedent dooms Verizon's arguments that AT&T may provide IXCs with access only to AT&T's local customers, and that AT&T may not provide a service through UNE facilities that it could also provide after purchasing the same service through Verizon's access tariffs.[656] In addition, AT&T argues that the Commission interprets section 251 as barring incumbent LECs from charging switched access rates where requesting carriers seek to provide access services through UNEs: "[w]hen interexchange carriers purchase unbundled elements from incumbents, they are not purchasing exchange access 'services.'"[657]

201. AT&T emphasizes that it seeks, through this language, to use UNEs for the provision of competitive access service to other IXCs, and not to itself.[658] AT&T suggests that this distinction is important because, it argues, the Commission has held that that an IXC may not obtain interconnection pursuant to section 251(c)(2) solely for the purpose of originating and terminating its own interexchange traffic.[659] AT&T thus suggests that there is a key distinction between "providing" access service and "receiving" access service.[660] According to AT&T, the Commission also draws this distinction between carriers receiving access from an incumbent and

(Continued from previous page)
end-users who have chosen an IXC that is connected to . . . AT&T's tandem switch." AT&T's November Proposed Agreement to Verizon, Schedule 4, Part B, §§ 6.0, 6.1.

652 AT&T Brief at 53.

653 *Id.* at 54, citing *Local Competition First Report and Order,* 11 FCC Rcd 15499, 15598-99, para. 191, and 15595, para. 186.

654 AT&T Reply at 25, citing *Local Competition First Report and Order,* 11 FCC Rcd at 15679, para. 356.

655 AT&T Brief at 57-58. AT&T suggests that the Texas Commission has declined to impose use restrictions on UNEs, permitting their use to provide competitive access. *Id.* at 58.

656 AT&T Reply at 25-26, citing *Local Competition First Report and Order,* 11 FCC Rcd at 15679-80, para. 358.

657 *Id.* at 26, citing *Local Competition First Report and Order,* 11 FCC Rcd at 15679-80, para. 358.

658 AT&T Brief at 54.

659 *Id.* at 53-54. AT&T cites the *Local Competition First Report and Order* for the proposition that "an IXC that seeks to interconnect solely for the purposes of originating and terminating its own interexchange traffic is not offering access, but rather is obtaining access for its own traffic." *Local Competition First Report and Order,* 11 FCC Rcd at 15598-99, para.191.

660 AT&T Brief at 53-54, citing *Local Competition First Report and Order,* 11 FCC Rcd at 15598-99, para.191.

carriers providing access using UNEs.[661] As a prospective provider of access service, AT&T concludes, it is fully within its rights to obtain interconnection and UNEs.[662]

202. AT&T also proposes language regarding meet point traffic which would establish meet-point trunk groups between the parties.[663] AT&T argues that when it provides tandem service to connect a Verizon local exchange customer and that customer's IXC, that call would go from Verizon's end office to AT&T's switch and then to the IXC.[664] According to AT&T, since the parties have a meet point arrangement when Verizon is providing the tandem service for AT&T's local exchange customers' calls to their chosen IXCs, the same arrangement should govern when Verizon's and AT&T's roles are reversed.[665] AT&T asserts that its proposed language recognizes that AT&T and Verizon are co-carriers in the provision of competitive tandem service, even though AT&T has agreed that the terms for its provision of competitive tandem service need not be governed by terms applicable to meet point billing trunks.[666]

203. AT&T disagrees with Verizon's argument that the interconnection agreement should be limited to the interconnection and exchange of local traffic, and urges that its proposed exchange access service belongs in the interconnection agreement.[667] According to AT&T, because the law requires Verizon to permit interconnection for the provision of exchange access service, Verizon has no basis for excluding AT&T's proposed language from the interconnection agreement.[668] AT&T also disputes Verizon's interpretation that section 251(g) carves out "interexchange access traffic" from the Act.[669] AT&T interprets section 251(g) as preserving existing access tariffs so that, should they wish to, carriers may receive the same equal access and nondiscrimination pursuant to tariffs as they did before passage of the Act.[670] That is, an eligible requesting carrier could interconnect and obtain UNEs pursuant to section 251, or it could purchase services from the incumbent pursuant to the preserved tariff.[671] According to AT&T,

[661] AT&T Reply at 25-26, 28, citing *Local Competition First Report and Order,* 11 FCC Rcd at 15679-81, para. 356-62.

[662] AT&T Brief at 53-54.

[663] AT&T's November Proposed Agreement to Verizon, Schedule 4, Part B, § 4.

[664] AT&T Brief at 52-53.

[665] *Id.*

[666] *Id.* at 56.

[667] *Id.* at 54.

[668] *Id.* at 55.

[669] *Id.* at 54, citing Verizon Exhibit 4, at 43.

[670] AT&T Reply at 26-27, citing *Local Competition First Report and Order,* 11 FCC Rcd at 15681-82, para. 362.

[671] *Id.*

however, 251(g) does not limit or restrict the services that requesting carriers may provide over UNEs.[672]

204. Verizon opposes adoption of AT&T's language on several grounds. Verizon argues that, because AT&T does not seek to provide exchange service or exchange access to AT&T's own local customers through this arrangement, it does not belong in an interconnection agreement governing local exchange service.[673] Rather, argues Verizon, AT&T plans to market its competitive access service to IXCs, which AT&T (and other competitive access providers) can currently do pursuant to Verizon's switched access tariffs.[674] According to Verizon, AT&T is entitled to obtain service only from Verizon's switched access tariffs, and the tariffed rate would apply, not a cost-based TELRIC rate.[675] Verizon accuses AT&T of attempting unlawfully to bypass Verizon's switched access tariffs by gaining interconnection pursuant to section 251.[676] In addition, Verizon points out that two state commissions, including the New York Commission, have refused to include AT&T's competitive access service in interconnection agreements with incumbent LECs.[677] Finally, as a policy matter, Verizon argues that AT&T's proposal will not advance local competition, because AT&T seeks here to provide services to IXCs, and not end users.[678]

205. Verizon also opposes AT&T's proposal on grounds that AT&T is seeking to use exchange access service that Verizon provides to Verizon customers: "[b]ecause they remain Verizon VA customers, Verizon VA remains the carrier providing both the local exchange and exchange access service to those customers."[679] Verizon argues that when "AT&T delivers long distance calls for completion over Verizon's local network to Verizon's local customers," it is

[672] AT&T Reply at 27.

[673] Verizon Intercarrier Compensation (IC) Brief at 31.

[674] *Id.* at 32.

[675] *Id.* at 33; Verizon IC Reply at 19.

[676] Verizon IC Brief at 31-32.

[677] *Id.* at 34, citing *New York Commission AT&T Arbitration Order* at 39-40 (finding that the interconnection agreement properly deals with local service interconnections with Verizon, not AT&T's arrangements with other carriers), and *AT&T Communications of Indiana TCG Indianapolis, Petition for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with Indiana Bell Telephone Company, Incorporated d/b/a Ameritech Indiana Pursuant to Section 252(b) of the Telecommunications Act of 1996,* Cause No. 40571-INT-03 at 30, (Indiana Commission, Nov. 20, 2000) (determining that access traffic is not local traffic and is therefore appropriately dealt with in federal and state access tariffs, not interconnection agreements).

[678] Verizon IC Brief at 37.

[679] Verizon IC Reply at 18.

"merely *using* Verizon's access service and is therefore subject to the payment of appropriate access charges."[680]

206. Verizon also argues that AT&T's proposal is inconsistent with section 251(g) of the Act which, Verizon contends, preserves pre-existing switched access tariffs.[681] Verizon argues that the Eighth Circuit's *CompTel* decision supports its contention that section 251(g) "*preserves* certain rate regimes already in place,"[682] and that the Eighth Circuit refused to permit IXCs to interconnect in order to obtain access at UNE rates.[683] Verizon also argues that the Commission supported this interpretation of section 251(g) when it determined that "Congress preserved the pre-Act regulatory treatment of *all* access services enumerated under section 251(g)."[684] AT&T requests access service, Verizon argues, regardless of whether AT&T plans to provide it to itself or to another IXC.[685]

207. Verizon also maintains that the meet point billing language AT&T proposes is inappropriate because the scenario AT&T describes does not involve two "peer" LECs providing a service jointly.[686] Rather, AT&T is competing with Verizon for exchange access customers.[687] Verizon suggests that peer LECs in a meet point billing arrangement do not compete with each other, but instead jointly provide transport that benefits the LECs and the IXC.[688] What AT&T describes is exactly what the IXCs have done, argues Verizon, and they should order the services

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680 *Id.* at 19 (emphasis in original).

681 Verizon IC Brief at 33.

682 *Id.* at 33, citing *CompTel v. FCC* 117 F.3d 1068, 1072 (8th Cir. 1997) (*CompTel*) (emphasis added by Verizon). Verizon also argues that, while AT&T seeks to interconnect to provide "exchange access services" pursuant to section 251(c)(2), that section deals only with the "physical link" between the two networks; the rate that applies is governed by other sections (*e.g.,* section 251(g)). Verizon IC Reply at 18 (emphasis omitted), citing *CompTel*, 117 F.3d at 1072; Verizon IC Reply at 18, n.53, citing *Local Competition First Report and Order,* 11 FCC Rcd at 15599, para. 191 n.398.

683 Verizon IC Brief at 33; Verizon IC Reply at 18.

684 Verizon IC Brief at 34, citing *Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, Order on Remand and Report and Order (*ISP Intercarrier Compensation Order*), 16 FCC Rcd 9151, 9169-70, para. 39 (2001) (emphasis added by Verizon).

685 Verizon IC Brief at 35.

686 *See* Verizon Ex. 18 (Rebuttal Testimony of Pitterle, D'Amico), at 17-24.

687 *Id.*

688 *Id.*

out of the tariffs.[689] Verizon argues that AT&T's revised language addressing meet point billing is unnecessary because the parties have elsewhere agreed to meet point billing language.[690]

c. Discussion

208. We reject AT&T's proposed language.[691] We understand that AT&T, through its proposed language, seeks to use "UNE local switching, tandem switching, and transport," obtained at TELRIC rates, to provide competitive access services to IXCs, for end users that do not receive local exchange service from AT&T.[692] We find this arrangement to be inconsistent with Commission precedent establishing that, as a practical matter, a requesting carrier may not purchase UNE switching solely to provide exchange access service, without also providing local exchange service to that end user.[693] Specifically, the Commission has held that "a carrier that purchases an unbundled switching element for an end user may not use that switching element to provide interexchange service to end users for whom that requesting carrier does not also provide local exchange service."[694] Because we reject AT&T's proposed language for this reason, we need not address the other arguments raised by the parties regarding this issue.

209. While the parties addressed, in their advocacy on this issue, only AT&T's proposal on competitive access service, Verizon also lists certain other language as applicable to this issue. This other language appears to govern reciprocal compensation and routing of exchange access traffic, including meet point billing.[695] We note, however, that the parties indicate they have agreed on language that would govern meet point billing,[696] and AT&T's proposed agreement contains language that appears very similar to Verizon's proposal in this regard.[697] Moreover, Verizon does not provide any explanation of, or support for, its proposed language in its briefs or testimony. Therefore, it is not possible for us adequately to judge the

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[689] *Id.*

[690] Verizon IC Brief at 36-37.

[691] AT&T's November Proposed Agreement to Verizon, Schedule 4, Part B, §§ 4, 6.0, 6.1, 6.2, 6.3, 6.4, 6.5, 6.6.

[692] AT&T's November Proposed Agreement to Verizon, Schedule 4, Part B, § 6.1.

[693] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, Order on Reconsideration (*Local Competition Order on Reconsideration*), 11 FCC Rcd 13042, 13049, at paras. 12-13.

[694] *See id.* (defining the local switching element "in a manner that includes dedicated facilities, thereby effectively precluding the requesting carrier from using unbundled switching to substitute for switched access services where the loop is used to provide both exchange access to the requesting carrier and local exchange service by the incumbent LEC.")

[695] *See* Verizon's November Proposed Agreement to AT&T, §§ 5.7.1, 6.1, 6.2 *et seq*, 6.3 *et seq.*

[696] *See* AT&T Brief at 56; Verizon IC Brief at 36-37.

[697] *See, e.g.*, AT&T's November Proposed Agreement to Verizon, §§ 5.7 *et seq.*, 6.1, 6.2 *et seq.*, 6.3 *et seq.*

merits of Verizon's proposal, or even to determine the nature of the parties' dispute, if any, concerning this language. Accordingly, we decline to adopt Verizon's proposed language.

18. Issue V-2 (Interconnection Transport)

a. Introduction

210. AT&T and Verizon disagree over the terms under which Verizon must provide "interconnection transport" to AT&T at UNE rates, specifically whether AT&T must be collocated in order to purchase UNE dedicated transport. Verizon contends that AT&T must purchase "entrance facilities and transport for interconnection" from its access tariffs, and that AT&T is entitled to purchase interoffice transmission facilities at UNE rates only where these facilities terminate in an AT&T collocation arrangement. AT&T, on the other hand, argues that it is entitled to interoffice transmission facilities at UNE rates, regardless of whether these facilities terminate in an AT&T collocation arrangement. We adopt AT&T's proposed language.[698]

b. Positions of the Parties

211. AT&T proposes language stating that it may purchase "UNE Dedicated Transport" at UNE rates, and argues that it may use these facilities to interconnect with Verizon's network.[699] AT&T argues that this language would enable it, for example, to purchase interoffice facilities at UNE rates to pass traffic between an AT&T building where Verizon has a fiber terminal to a Verizon wire center or switch location.[700] AT&T disputes Verizon's position that AT&T is only entitled to UNE rates for interconnection facilities that terminate at an AT&T collocation arrangement, arguing that there is no collocation requirement associated with a competitive LEC's right to obtain UNEs.[701] Specifically, AT&T disputes Verizon's characterization that without collocation, AT&T is proposing to purchase an end-to-end service, which it may not purchase at UNE rates.[702] AT&T also denies that it seeks, through its language, to create a new UNE combination.[703] Finally, AT&T contends that Verizon's position is simply an impermissible attempt to avoid its unbundling requirements by forcing AT&T to purchase access services.[704]

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698 AT&T November Proposed Agreement to Verizon, Schedule 4, Part B, proposed § 1.2.

699 AT&T Brief at 59.

700 *Id.*

701 *Id.* at 59-62; AT&T Reply at 31.

702 AT&T Brief at 61-62.

703 *Id.* at 62-63; AT&T Reply at 31.

704 AT&T Brief at 64.

212. Verizon's proposed contract language references its intrastate and interstate access tariffs as the pricing mechanisms that would govern the use of "entrance facilities and transport for interconnection."[705] Verizon maintains that, in order to purchase interoffice transport at UNE prices, AT&T "must have a collocation arrangement at that tandem or end office."[706] According to Verizon, if AT&T does not order interoffice transport in connection with a collocation arrangement, it is not entitled to UNE rates; AT&T must pay access tariff rates in that case.[707]

213. Verizon argues that it is not forcing AT&T to purchase interconnection transport out of its access tariffs.[708] According to Verizon, AT&T may purchase Verizon's UNE interoffice transmission facilities from AT&T's collocation arrangement to AT&T's switch, or AT&T may self-provision transport, purchase it from a third-party, or purchase it from Verizon through its access tariffs.[709] However, Verizon argues that AT&T is not entitled to pay UNE rates for transport it orders out of Verizon's access tariffs, which is what it maintains AT&T's proposal would effectively enable it to do.[710]

214. Verizon also contends that AT&T's proposal would create a new combination of UNEs, for which the Commission has not conducted the requisite "necessary and impair" analysis.[711] According to Verizon, this combination would consist of an entrance facility, UNE dedicated transport, a switch port, and possibly a multiplexer.[712] Verizon argues that it would be required to construct transport from AT&T's switch to Verizon's serving wire center, which is an entrance facility, and to construct transport from the serving wire center to Verizon's switch.[713] Verizon asserts that this would violate the Commission's determination that incumbent LECs need not "construct new transport facilities to meet specific competitive LEC point-to-point demand requirements for facilities that the incumbent LEC has not employed for its own use."[714]

c. Discussion

705 Verizon's November Proposed Agreement to AT&T, Ex. A, § 1.A.II.

706 Verizon NA Brief at 56-57.

707 *Id.* at 57.

708 *Id.* at 56.

709 *Id.*.

710 *Id.* at 56-57; Verizon NA Reply at 30. Verizon contends that AT&T has admitted that it wants to pay the lowest possible rate for transport, regardless of whether it is Verizon's access service or a UNE. Verizon NA Brief at 56.

711 *Id.* at 57. In addition, Verizon argues that AT&T is not impaired simply because it must purchase a service out of Verizon's access tariffs, rather than obtaining it at the cheaper UNE rate. *Id.*

712 *Id.* at 57.

713 Verizon NA Reply at 30.

714 *Id.*, citing *UNE Remand Order*, 15 FCC Rcd 3696, 3843, para. 324.

215. We adopt AT&T's proposed language on UNE dedicated transport.[715] We find this language to be consistent with the Act and Commission rules, which entitle AT&T to obtain interoffice transmission facilities from Verizon at UNE rates.[716] We also find that the rates for these UNEs should, as AT&T suggests, be set forth in the agreement's pricing schedule.[717]

216. We note that Verizon has offered no specific objections to AT&T's proposed language. Verizon offers several general objections to what it portrays as AT&T's position, but we reject each of these objections. Specifically, we disagree that AT&T's proposed language somehow requires Verizon to construct new transport facilities. There is no indication in the record that AT&T is seeking UNE dedicated interoffice facilities that Verizon has not already deployed. We also reject Verizon's assertion that AT&T's proposed language would impermissibly entitle it to a new UNE combination. AT&T's language does not purport to expand its rights to obtain access to combinations of UNEs, including enhanced extended links (EELs).[718] In any case, we note that AT&T's language refers explicitly to "applicable law." To the extent that either party desires to clarify its rights or obligations regarding combinations of UNEs consistent with the Supreme Court's ruling in *Verizon Telephone Cos. v. FCC*,[719] it would be appropriate to do so through the contract's change of law mechanism.

217. We also reject Verizon's proposed language to the extent Verizon seeks to limit AT&T's ability to order "Entrance Facilities and Transport for Interconnection."[720] Verizon does not define "Transport for Interconnection," but statements in its briefs suggest that this may encompass facilities defined under the Commission's rules as "dedicated transport."[721] Verizon

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715 AT&T's November Proposed Agreement to Verizon, Schedule 4, Part B, § 1.2.

716 47 U.S.C. § 251(c)(3); 47 C.F.R. § 51.319(d)(1)(i) (defining dedicated transport as those transmission facilities between wire centers owned by the incumbent LEC or requesting carriers, or between switches owned by incumbent LECs or requesting carriers).

717 Pricing issues will be the subject of a subsequent order.

718 The Commission has stated that the mid-span meet is a reasonable accommodation of interconnection, not a separate element. *Local Competition First Report and Order*, 11 FCC Rcd at 15780-81, para 553. Finally, AT&T is entitled to multiplexing functionality as a feature of UNE transport. 47 C.F.R. §§ 51.307(c), 51.319(d)(1)(i); *UNE Remand Order*, 15 FCC Rcd at 3842-43, para. 323. For a more extensive discussion of multiplexing as a feature of UNE dedicated transport, *see supra*, Issue IV-21.

719 *Verizon v. FCC*, 122 S.Ct. 1646 (2002).

720 Verizon's November Proposed Agreement to AT&T, Ex. A, § 1.A.II.

721 We infer, from the terminology Verizon uses in its briefs, that Verizon's proposed contract language relates to the circumstances under which AT&T could obtain unbundled interoffice facilities or unbundled transport from Verizon. For example, Verizon states, "AT&T may purchase UNE IOF from its collocation arrangement to its switch location. AT&T may also purchase transport from a third-party, self provision the transport, or purchase the transport from Verizon's access tariff." Verizon NA Brief at 56. Or, Verizon states, "[i]f AT&T is not ordering transport in connection with its collocation arrangement, then it is not entitled to UNE rates and must pay access." Verizon NA Brief at 57.

has no basis for requiring AT&T to order dedicated transport from its access tariffs.[722] Although Verizon lists several ways AT&T could obtain "interconnection transport," we reject any suggestion that the availability of such choices should therefore limit AT&T's ability to obtain dedicated interoffice facilities on an unbundled basis. The Commission has rejected similar arguments, concluding that incumbent LECs may not avoid the 1996 Act's unbundling and pricing requirements by offering tariffed services that might qualify as alternatives.[723] Moreover, we reject Verizon's suggestion that AT&T is entitled to dedicated transport at UNE rates only where it has collocated at Verizon's wire center or other facility. There is no requirement that a competitive LEC collocate at the incumbent LEC's wire center or other facility in order to purchase UNE dedicated transport, and Verizon offers no support for its contrary position.[724]

19. Issue V-16 (Reciprocal Transit Services)

a. Introduction

218. AT&T proposes that we allow it, at its sole discretion, to offer transit services to Verizon.[725] Verizon opposes this proposal, offering language that would require AT&T to provide Verizon with transit services to the same extent and on the same terms that Verizon provides transit services to AT&T.[726] These reciprocal transit services would reduce Verizon's costs of exchanging traffic with carriers that directly interconnect with AT&T. Transit services enable a carrier to deliver traffic to, and receive traffic from, another carrier, using a third, intermediate carrier's network. Carriers are said to be indirectly interconnected to the extent they

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722 We note in this regard that AT&T seeks to purchase UNE transport, not access services. *See Local Competition First Report and Order,* 11 FCC Rcd at 15598-99, para.191, 15679-80, para. 358.

723 *UNE Remand Order*, 15 FCC Rcd at 3855, para. 354; *Local Competition First Report and Order*, 11 FCC Rcd at 15640-44, paras 277-88.

724 *See generally UNE Remand Order*, 15 FCC Rcd at 3842-46, paras. 322-30, *Local Competition First Report and Order*, 11 FCC Rcd at 15717-15722, paras. 439-51. To the contrary, the Commission suggested that "an interoffice facility could be used by a competitor *to connect to the incumbent LEC's switch* or to the competitor's collocated equipment." *Local Competition First Report and Order* at 15718, para. 440 (emphasis added). *See also Net2000 Communications, Inc. v. Verizon – Washington D.C., Inc. et al.*, Memorandum Opinion and Order, 17 FCC Rcd. 1150, 1158, para. 26, (2002) (recognizing that carriers' right to convert special access circuits to EELs applies to collocated and non-collocated arrangements). We also discuss collocation in the context of Issues III-8 and IV-21, *supra.*

725 AT&T's November Proposed Agreement to Verizon, § 7.2.7.

726 Verizon's November Proposed Agreement to AT&T, § 7.2.7; Verizon Ex. 4 (Direct Testimony of D. Albert & P. D'Amico), at 41.

use transit services to exchange traffic.[727] For reasons provided below, we adopt AT&T's proposal.

b. Positions of the Parties

219. AT&T argues that the Commission lacks authority to impose transit obligations on competitive LECs.[728] AT&T argues that the duty to provide transit services is an "additional obligation" applied only to incumbent LECs under section 251(c)(2)(A) of the Act, and thus does not apply to a carrier like AT&T.[729] AT&T states that the Act does not compel non-incumbents to provide transit services,[730] and that the Commission has held that section 251(c)(2) does not impose reciprocal interconnection obligations on non-incumbent LECs.[731] AT&T also states that it is willing to provide transit services to Verizon subject to good faith negotiations.[732]

220. Verizon states that, while the Act does not require AT&T or Verizon to provide transit services, as a matter of fairness, AT&T should provide Verizon the same transit service that Verizon provides AT&T.[733] If its transit traffic goes beyond the DS-1 level, Verizon is willing to establish a direct interconnection agreement with the carrier with which it is exchanging traffic.[734]

c. Discussion

221. We decline to impose transit obligations on AT&T in this proceeding and therefore accept AT&T's contract language on this issue.[735] Verizon has not pointed to any provision of the Act or the Commission's rules that requires AT&T to provide Verizon with transit services. Instead, Verizon argues that fairness dictates that it have transit choices comparable to those available to competitive LECs.[736] The Commission, however, has never

727 *See Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 15 FCC Rcd 17806, 17845, n.198 (*Collocation Reconsideration Order*) (subsequent history omitted).

728 AT&T Brief at 65.

729 *See* AT&T Ex. 1 (AT&T Petition), Attach. A at 38-39.

730 AT&T Brief at 64-65.

731 AT&T Ex. 1 at 39, citing *Local Competition First Report and Order*, 11 FCC Rcd at 15613, para. 220.

732 AT&T Brief at 65.

733 Verizon NA Brief at 42.

734 Verizon Ex. 4 at 41-42.

735 *See* AT&T's November Proposed Agreement to Verizon, § 7.2.7.

736 Verizon NA Brief at 42.

imposed transit obligations on competitive LECs pursuant to any provision of the Act. In the absence of clear Commission precedent or rules declaring that competitive LECs have a duty to provide transit services to incumbents, we decline, on delegated authority, to impose that duty for the first time on AT&T. We recognize that AT&T may choose voluntarily to offer transit services to Verizon.[737] In the event AT&T actually provides those services, it shall do so in a manner consistent with the terms and conditions discussed under Issues III-1/III-2/IV-1, above, regarding transit services that Verizon provides AT&T.[738]

20. Issue VI-1-A (Trunk Types)

a. Introduction

222. Both parties propose language identifying the types of trunks the parties will use to interconnect each other's networks.[739] Some of this proposed language is substantively addressed in other issues.[740] Furthermore, one of the trunk types identified is the subject of another issue.[741] Of the remaining language in dispute under this issue, we adopt WorldCom's proposed language for the reasons set forth below.

b. Positions of the Parties

223. Verizon argues that its proposed language under this issue serves two purposes. The first purpose is to provide short-hand references to the different types of trunk groups addressed elsewhere in the parties' agreement. Verizon states that, in its responses to Issues I-1, IV-2, IV-6, IV-8 and VI-1-C, it has addressed the need for these trunking arrangements.[742] Verizon responds to WorldCom's claim that it has presented no evidence on this issue by arguing that it relied on its testimony for other issues instead of repeating itself.[743] Second, Verizon's

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737 *See* AT&T Brief at 65.

738 *See supra,* Issue III-1/III-2/IV-1.

739 *See* Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., §§ 2.2.1-2.2.2; WorldCom's Proposed Agreement to Verizon, Part C, Attach. IV, §§ 1.2-1.3.

740 *See supra,* Issue IV-5 (addressing WorldCom's proposed section 1.2.5); Issue IV-2 (addressing WorldCom's proposed section 1.2.7.2); and Issue I-4 (addressing WorldCom's proposed section 1.3).

741 *See supra,* Issue IV-6 (discussing access toll connecting trunks); Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., § 2.2.1.2.

742 *See* Verizon NA Brief at 72.

743 *See* Verizon NA Reply at 36 (claiming reliance on evidence from Issues I-1, IV-2, IV-5, IV-6, IV-8 and VI-1-C).

proposed language provides that the parties reach mutual agreement over the implementation of one-way or two-way trunks.[744]

224. WorldCom argues that its language should be adopted because it has provided ample evidence in support of its proposed language.[745] WorldCom also argues that Verizon fails to provide any evidence in support of its proposed language for this issue.[746] WorldCom objects to the provisions of Verizon's proposed language requiring mutual agreement for the implementation of interconnection trunks as one- or two-way trunks.[747] Finally, WorldCom states that Verizon concedes that all trunk types included in its language are being litigated under other issues, and disputes that there is any need for "short-hand" references to the trunk types in the agreement.[748]

c. Discussion

225. We adopt WorldCom's proposed language under this issue, to the extent it is not substantively addressed under other issues.[749] We find that, to the extent the parties' proposed language under this issue is not the subject of other issues, there is very little difference between the parties' proposals. Both proposals merely identify the specific trunk types that the parties will use to interconnect, identifying the same trunk types for the most part. Verizon's proposed language includes access toll connecting trunks among the types of trunks the parties will use. As discussed above, we reject Verizon's proposed language requiring WorldCom to purchase access toll connecting trunks in order to provide switched exchange access to IXCs jointly with Verizon.[750] Because Verizon's proposed language incorporates the distinction we have rejected between the parties' local interconnection trunks and access toll connecting trunks, we reject Verizon's proposed language under this issue.[751]

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744 *See* Verizon NA Brief at 72-73.

745 *See* WorldCom Brief at 69.

746 *See id.* at 68.

747 *See id.* at 69. As explained above, this language is the subject of another issue. *See supra,* Issue IV-2 (addressing Verizon's proposed section 2.2.3).

748 *See* WorldCom Reply at 59.

749 Specifically, we adopt WorldCom's proposed sections 1.2, 1.2.1-1.2.4 and 1.2.6 of Part C, Attachment IV.

750 *See supra,* Issue IV-6.

751 *See* Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., §§ 2.2.1-2.2.2.

21. Issues VI-1-B/VII-6 (Transmission and Routing of Telephone Exchange Access Traffic, and Intermediate Hub Locations in NECA Tariff 4)

a. Introduction

226. These issues relate to the circumstances under which WorldCom and AT&T may obtain interconnection trunks and associated multiplexing from Verizon. First, Verizon proposes that its interconnection agreement with WorldCom include the following language: "Both Parties shall use either a DS-1 or DS-3 interface at the POI. Upon mutual agreement, the Parties may use other types of interfaces, such as STS-1, at the POI, when and where available."[752] WorldCom contends that this language would unlawfully limit the interfaces it may use to interconnect with Verizon, and thus would prevent WorldCom from using optical and other higher capacity interconnection interfaces that would enable it to transmit traffic more efficiently. WorldCom proposes that the interconnection agreement instead require that "Verizon shall provide Interconnection at any Technically Feasible point, by any Technically Feasible means" at locations where WorldCom interconnects with Verizon.[753] For the reasons set forth below, we adopt WorldCom's proposal on this issue.

227. In addition, Verizon proposes language that would allow AT&T and WorldCom to terminate local interconnection trunks having DS-3 interfaces only at those Verizon offices that the National Exchange Carrier Association, Inc. (NECA) lists as intermediate hubs in NECA Tariff 4, unless Verizon agrees to a different termination.[754] AT&T and WorldCom contend that they also should be able to terminate local interconnection trunks having DS-3 interfaces at non-intermediate hub locations.[755] Otherwise, they argue, they would be forced to misroute their DS-3 traffic to the intermediate hubs and then purchase relatively expensive DS-1s to transport it to the other offices. We rule for AT&T and WorldCom on this issue.

228. We note that local interconnection trunks connect Verizon's network with AT&T's and WorldCom's networks for the purpose of exchanging switched traffic.[756] Because

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[752] Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., § 5.2.1.

[753] WorldCom's November Proposed Agreement to Verizon, Part C, Attach IV, § 1.1.2.

[754] *See, e.g.,* Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., § 5.2.1. NECA Tariff 4 is a database that describes the location and technical capabilities of wire centers that provide interstate access services. Carriers use this database in ordering, billing for, and provisioning those services. *See* NECA, Tariff 4 Brochure, at 1, http://www.neca.org./tariff4.htm. Verizon determines which of its offices will be classified as intermediate hubs in that tariff. *See* Tr. at 2622.

[755] *See, e.g.,* AT&T Brief at 75; WorldCom Brief at 69.

[756] *See* Tr. at 2429-30.

all of Verizon's switches have DS-1 interfaces,[757] multiplexing equipment must disaggregate traffic delivered through a DS-3 interface into DS-1s prior to switching.[758] Verizon's intermediate hubs contain electronic digital cross-connect system (DCS) equipment capable of disaggregating DS-3s into DS-1s.[759] To transport switched traffic between its offices using fiber optic facilities, Verizon takes a number of lower order digital signals and multiplexes them into higher order optical signals, such as OC-12s or OC-48s.[760] The parties agree that a DS-3 portion of these optical signals (*i.e.*, a channelized DS-3) may be dedicated to a competitive LEC.[761]

b. Types of Interfaces

(i) Positions of the Parties

229. Verizon contends that instead of limiting the methods of interconnection available to WorldCom, its proposal simply addresses how WorldCom should order switched local interconnection trunks from Verizon.[762] Verizon asserts that DS-1s and DS-3s are the only transport interfaces for switched trunks that it presently provides to competitive LECs, IXCs, or other carriers.[763] Verizon maintains that WorldCom's request for switched interconnection trunks having other interfaces is broad, vague, and not technically defined, and that WorldCom should use the Bona Fide Request (BFR) process if it wishes to interconnect at a rate higher than DS-3.[764]

230. WorldCom argues that Verizon's proposal unlawfully limits the methods of interconnection available to WorldCom at the POI.[765] WorldCom also argues that interconnection interfaces other than DS-1s and DS-3s are technically feasible, that Verizon cannot properly preclude WorldCom from using those other interfaces, and that Verizon should

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[757] Tr. at 2520 (testimony of Verizon witness Albert); *see* AT&T Brief at 74 (pointing out that Verizon witness Albert testified that the only trunk interface Verizon provides itself is a DS-1 interface).

[758] Tr. at 2519-20 (testimony of WorldCom witness Greico).

[759] Verizon NA Brief at 54, citing Tr. at 2622-23; Verizon NA Reply at 28.

[760] Tr. at 2523, 2630-31.

[761] *Id.* at 2520-21, 2629.

[762] Verizon Ex. 26 (Rebuttal Testimony of D. Albert & P. D'Amico), at 12; Verizon NA Brief at 53.

[763] Verizon Ex. 26, at 13.

[764] Tr. at 2435-37 (testimony of Verizon witness Albert); Verizon Ex. 26, at 13.

[765] WorldCom Ex. 14 (Direct Testimony of D. Greico), at 22-23; Tr. at 2517-18 (testimony of WorldCom witness Greico); WorldCom Reply at 61.

deploy those other interfaces upon request without requiring WorldCom to go through the BFR process.[766]

(ii) Discussion

231. We adopt WorldCom's proposed language,[767] which we find to be consistent with Commission precedent stating that "any requesting carrier may choose any method of technically feasible interconnection . . . at a particular point."[768] We conclude that Verizon's proposed language does not reflect this right.[769] By its terms, that language would give Verizon the discretion to decide whether to permit technically feasible interconnection interfaces other than DS-1s and DS-3s.[770] We therefore reject Verizon's language in favor of WorldCom's language.

232. We recognize that because competitive LECs, including WorldCom, typically interconnect at the DS-1 or DS-3 level,[771] the parties have not resolved all the technical and practical issues that a request for another interconnection interface might entail.[772] Indeed, WorldCom does not propose specific contract terms that would govern Verizon's provision to WorldCom of interconnection interfaces other than DS-1s and DS-3s.[773] In these circumstances, we conclude that if WorldCom requests an alternative, technically feasible interconnection interface from Verizon, the parties must negotiate in good faith the rates, terms, and conditions under which Verizon will provide it.[774] We note that the Commission has previously held that "a requesting carrier that wishes a 'technically feasible' but expensive interconnection would, pursuant to section 252(d)(1), be required to bear the costs of that interconnection, including a reasonable profit."[775]

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[766] WorldCom Reply at 61; WorldCom Ex. 14, at 22-23; Tr. at 2517-19 (testimony of WorldCom witness Greico).

[767] WorldCom's November Proposed Agreement to Verizon, Part C, Attach IV, § 1.1.2.

[768] *Local Competition First Report and Order*, 11 FCC Rcd at 15779, para. 549.

[769] *See* Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., § 5.2.1 (first two sentences).

[770] WorldCom Ex. 14, at 22-23.

[771] *See* Tr. at 2518 (testimony of WorldCom witness Greico).

[772] *See id.* at 2668-69.

[773] *See* WorldCom's November Proposed Agreement to Verizon, Part C, Attach IV, § 1.1.2.

[774] The parties may use a process similar to the BFR process to facilitate the negotiations. We note that, under Verizon's and WorldCom's proposed contract language, only requests for UNEs would trigger the BFR process. *See* Verizon's November Proposed Agreement to WorldCom, Part B, § 2.14; WorldCom's November Proposed Agreement to Verizon, Part A, § 6, & Part B (definition of BFR).

[775] *See Local Competition First Report and Order*, 11 FCC Rcd at 15603, para. 199, citing 47 U.S.C. § 252(d)(1).

c. Multiplexing Only at Intermediate Hub Locations

(i) Positions of the Parties

233. Verizon proposes language that would allow it to preclude AT&T and WorldCom from terminating local interconnection trunks having DS-3 interfaces at offices other than those it designates as "intermediate hub" locations through NECA Tariff 4.[776] Verizon states that all of its intermediate hubs contain digital cross-connect equipment capable of disaggregating DS-3s into DS-1s as well as connections to transport capable of carrying the DS-1 facilities to other Verizon offices.[777] Verizon argues that restricting DS-3 to DS-1 multiplexing to intermediate hubs is consistent with the Commission's requirement that incumbent LECs "offer DCS capabilities [to requesting carriers] in the same manner that they offer such capabilities to IXCs."[778] Verizon asserts that all multiplexed DS-3 facilities that IXCs order from Verizon terminate at intermediate hubs.[779]

234. Verizon argues that it must have in place equipment able to perform DS-3 to DS-1 multiplexing in order to demultiplex a channelized DS-3 into DS-1s for termination on Verizon's switch.[780] Verizon claims that, with the exception of a few end offices,[781] only its intermediate hubs have digital cross-connect equipment capable of performing DS-3 to DS-1 multiplexing; some of its other offices have obsolete asynchronous DS-3 to DS-1 multiplexers that can serve only one customer.[782] Verizon offers to move these multiplexers to the offices where AT&T and WorldCom want DS-3 to DS-1 multiplexing, provided those parties pay all associated costs.[783] According to Verizon, this offer goes beyond what Verizon is required to do.[784] Verizon states further that, whenever it performs DS-3 to DS-1 multiplexing for itself at locations other than its hubs, it uses one of these asynchronous DS-3 to DS-1 multiplexers.[785]

[776] Verizon's November Proposed Agreement to AT&T, § 5.2.1 (third sentence); Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., § 5.2.1 (last three sentences).

[777] Verizon NA Brief at 54, citing Tr. at 2622-23; Verizon NA Reply at 28.

[778] Verizon NA Brief at 54-55, quoting *Local Competition First Report and Order*, 11 FCC Rcd at 15720, para. 444.

[779] *Id.* at 54.

[780] *See, e.g.,* Tr. at 2623-24; Verizon NA Brief at 54.

[781] Verizon refers to these offices as "terminus hubs." Tr. at 2428-35.

[782] Tr. at 2631-34 (testimony of Verizon witness Albert).

[783] Verizon NA Brief at 55, citing Tr. at 2635.

[784] *Id.* at 55.

[785] Tr. at 2690-91.

235. AT&T and WorldCom contend that Verizon's proposal to restrict DS-3 to DS-1 multiplexing to intermediate hubs is inconsistent with Verizon's obligations to allow requesting carriers to interconnect at any technically feasible point and choose any feasible form of interconnection.[786] These parties maintain that we should require Verizon to provide DS-3 to DS-1 multiplexing upon request at non-intermediate hub offices.[787] They argue that Verizon has equipment capable of performing DS-3 to DS-1 multiplexing in all its offices and that it is technically feasible for Verizon to use this equipment to perform DS-3 to DS-1 multiplexing for competitive LECs.[788] AT&T states that Verizon routinely provides itself interoffice transport and associated multiplexing using facilities and equipment far exceeding DS-3 capabilities,[789] and that Verizon has not identified any technical reason why it cannot use the same facilities and equipment to provide DS-3 interconnection and DS-3 to DS-1 multiplexing at non-intermediate hub locations.[790] AT&T states that even if Verizon must adapt its facilities slightly at non-hub locations to accommodate AT&T's request, it is required to do so.[791]

236. AT&T asserts that Verizon is attempting to force AT&T to choose between using DS-1 facilities in lieu of relatively inexpensive DS-3 facilities and inefficiently routing traffic to intermediate hubs to access DS-3 facilities.[792] AT&T also asserts that Verizon need not recycle asynchronous DS-3 to DS-1 multiplexers in order to provide DS-3 interfaces in non-hub offices.[793] Furthermore, according to AT&T, the Commission's requirement that incumbent LECs offer requesting carriers the same DCS capabilities they offer IXCs is a minimum obligation and not a limitation on an incumbent's interconnection obligations.[794] AT&T also points out that it is asking Verizon to provide multiplexing, not DCS system capabilities specifically, at non-hub offices.[795]

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786 AT&T Brief at 76; AT&T Reply at 38; *see* WorldCom Brief at 69.

787 *See* AT&T Brief at 75-76; WorldCom Brief at 69.

788 *See, e.g.*, AT&T Brief at 75-76, citing AT&T Ex. 8 (Rebuttal Testimony of D. Talbott), at 38 & Tr. at 2640 (testimony of AT&T witness Schell); Tr. at 2521 (testimony of WorldCom witness Greico); Tr. at 2639-44 (testimony of AT&T witness Schell).

789 AT&T Brief at 74.

790 AT&T Reply at 38.

791 AT&T Brief at 76-77 n.259, citing *Local Competition First Report and Order*, 11 FCC Rcd at 15605, para. 202.

792 *Id.* at 74-75.

793 *Id.* at 76 n.258; *see also* WorldCom Brief at 69.

794 AT&T Reply at 37-38.

795 *Id.* at 38.

(ii) Discussion

237. We reject Verizon proposed contract language.[796] We find that this language is inconsistent with the Commission's requirement that an "incumbent must accept the novel use of, and modification to, its network facilities to accommodate the interconnector."[797] Even if we were to accept Verizon's assertion that its multiplexing equipment in non-hub offices cannot, as currently configured, accommodate interconnection at the DS-3 level by demultiplexing a channelized DS-3 into DS-1s, Verizon does not suggest that such functionality cannot be obtained through technically feasible modification to its network.[798] The record thus does not support Verizon's proposal, which would limit interconnection options available to petitioners and enable it to refuse a request for technically feasible interconnection at a non-hub office.[799] Furthermore, we note that the Commission places on the incumbent the "burden of demonstrating the technical infeasibility of a particular method of interconnection . . . at any individual point."[800] We find that Verizon's proposed language is inconsistent with this requirement because it would appear to enable Verizon to refuse a request for interconnection at the DS-3 level at a non-hub office at its sole discretion, without discharging this burden of demonstrating technical infeasibility.

238. We also reject Verizon's position that it need not offer multiplexing to AT&T and WorldCom in their capacity as competitive LECs beyond the digital cross-connect service they receive in their capacity as IXCs.[801] We agree with AT&T that Commission rule 319(d)(2)(iv) sets forth a minimum obligation and does not limit an incumbent's interconnection obligations.[802]

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[796] Verizon's November Proposed Agreement to AT&T, § 5.2.1 (third sentence); Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., § 5.2.1 (last three sentences).

[797] *Local Competition First Report and Order*, 11 FCC Rcd at 15605, para. 202. We note that Verizon admits that its terminus hubs have digital cross-connect equipment that can perform DS-3 to DS-1 multiplexing for AT&T and WorldCom, and that Verizon has offered to allow these parties to interconnect at the DS-3 level at these offices. Tr. at 2428-35, 2621-22.

[798] We note that AT&T and WorldCom maintain that it is technically feasible for Verizon to provide this demultiplexing functionality at each of its offices. Tr. at 2620-21 (testimony of WorldCom witness Greico); Tr. at 2640-41 (testimony of AT&T witness Schell).

[799] We recognize, of course, that Verizon need not create a superior network for its competitors. *Iowa Utils. Bd. v. FCC*, 120 F.3d 753, 812-13 (8th Cir. 1997) (subsequent history omitted). The United States Court of Appeals for the Eighth Circuit, however, has specifically "endorse[d] the Commission's statement that 'the obligations imposed by section[] 251(c)(2) . . . include modifications to incumbent LEC facilities to the extent necessary to accommodate interconnection.'" *Iowa Utils. Bd. v. FCC*, 120 F.3d at 813, n.33, quoting *Local Competition First Report and Order*, 11 FCC Rcd at 15602-03, para. 198.

[800] *Local Competition First Report and Order*, 11 FCC Rcd at 15782, para. 554.

[801] Verizon NA Brief at 54-55.

[802] AT&T Reply at 37-38. Rule 51.319(d)(2)(iv) requires that an incumbent "permit, to the extent technically feasible, a requesting telecommunications carrier to obtain the functionality provided by the incumbent LEC's digital (continued….)

Moreover, AT&T and WorldCom request that Verizon provide multiplexing, not DCS capabilities specifically, at non-hub offices.[803]

239. We recognize that the parties disagree on the question of whether (with or without modification) the equipment in Verizon's non-hub offices can accommodate interconnection at the DS-3 level by demultiplexing a channelized DS-3 into DS-1s for termination on Verizon's switch. We decline to address on this record what modifications, if any, Verizon must make to its facilities to enable the parties to interconnect at the DS-3 level at its non-hub offices. We also decline to address whether Verizon must let AT&T and WorldCom interconnect at the DS-3 level at any particular non-hub office. We urge the parties to work together to resolve any technical problems in the event AT&T or WorldCom seeks to interconnect at the DS-3 level at a specific non-hub office. If the parties' good faith efforts fail to resolve the matter, AT&T or WorldCom may invoke the dispute resolution process set forth in their agreement. Verizon, of course, will have the burden of proving that the requested method of interconnection is not technically feasible at the specific office.[804]

22. Issue VI-1-C (Toll-Free Service Access Code Traffic)

a. Introduction

240. The parties disagree on only one issue with respect to compensation for "8YY" traffic (*i.e.,* toll-free 800/877/888 calls) passing between their networks.[805] Verizon argues that, in certain instances when a WorldCom customer originates such a call, there is a risk that Verizon will be unable to identify the toll-free service provider, and therefore unable to bill it for tandem transit. Verizon proposes language that would shift the risk of non-payment in these instances to WorldCom.[806] WorldCom proposes a modification to Verizon's proposal that would have Verizon collect the charges at issue from the toll-free service provider, rather than from WorldCom.[807] We adopt WorldCom's language.

(Continued from previous page)
cross-connect systems in the same manner that the incumbent LEC provides such functionality to interexchange carriers." 47 C.F.R. § 51.319(d)(2)(iv); *see Local Competition First Report and Order*, 11 FCC Rcd at 15719-20, para. 444.

803 AT&T Reply at 38.

804 47 C.F.R. § 51.321(d).

805 Aside from the one disputed provision, discussed herein, the parties appear to have agreed on all other aspects of Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., § 10 *et seq.*

806 *See* Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., § 10.2.

807 *See* WorldCom's November Proposed Agreement, Attach. IV, § 11.2.

b. Positions of the Parties

241. Under Verizon's proposal, WorldCom would remain liable to Verizon for any Verizon transit service charges and associated pass-through charges arising from the parties' exchange of 8YY traffic.[808] Verizon argues that this proposal addresses an industry-wide technical problem.[809] According to Verizon, intra-LATA toll-free service providers often do not provide carrier identification codes (CIC codes) in the service management system (SMS) database that supports 8YY traffic.[810] When WorldCom originates a toll-free call and performs the associated "database dip" to convert the toll-free number to a regular telephone number, the call looks like a normal POTS call to Verizon. Verizon states that it therefore cannot identify the toll-free service provider to which it is sending the call.[811] Accordingly, it cannot bill the toll-free service provider for the transiting services it provides. Verizon states that, because WorldCom retains the billing record and knows who the toll-free service provider is, WorldCom can bill the provider.[812] Under Verizon's proposal, it would bill WorldCom for transiting services in such circumstances, and leave WorldCom to collect from the toll-free service provider.

242. WorldCom proposes a modification to Verizon's proposed language, which would require Verizon to "assess applicable Tandem Transit Service charges and associated pass through charges *to [the] toll free service access code service provider*" rather than to WorldCom.[813] According to WorldCom, there is no justification for Verizon's attempt to charge WorldCom for access services WorldCom does not receive.[814] WorldCom adds that, as Verizon's witness conceded, WorldCom is in no better position than Verizon to know the identity of the toll-free service provider or third-party LEC.[815] Furthermore, WorldCom states that, even assuming it could ascertain the identities of the relevant third-parties, Verizon does not explain how WorldCom could recoup Verizon's access charges from them when WorldCom's

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808 *See* Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., § 10.2.

809 *See* Verizon NA Brief at 73.

810 *See id.* at 74; Tr. at 2451-53. CIC codes are numeric codes assigned by the North American Numbering Plan (NANP) Administrator for the provisioning of selected switched services. The numeric code is unique to each entity and is used by the telephone company to route the call to the trunk group designated by the entity to which the code was assigned. The SMS, or 800 Service Management System (SMS/800), is the main administrative support system of 8YY toll-free service. It is used to create and update subscriber 8YY records that are then downloaded to Service Control Points (SCPs) for handling subscribers' 8YY calls and to Local Service Management Systems (LSMSs) for subsequent downloading to SCPs. The system is also used to reserve and assign 8YY numbers.

811 *See* Verizon NA Brief at 73.

812 *See id.* at 73-74.

813 *See* WorldCom's November Proposed Agreement, Attach. IV, § 11.2.

814 *See* WorldCom Brief at 71.

815 *See id.* at 71; WorldCom Reply at 63, citing Tr. at 2462-63.

tariff does not include charges for third-party access.[816] WorldCom argues that there is no justification for placing on WorldCom Verizon's problems in collecting for access services.[817]

c. Discussion

243. We find that the language WorldCom seeks to add to Verizon's proposed section 10.2 is reasonable, and direct the parties to include this language in their final agreement.[818] Verizon has not provided sufficient explanation for why WorldCom should be assessed for exchange access services Verizon provides to toll-free service providers. Furthermore, Verizon fails to explain how an originating or terminating competitive LEC is in any better position than Verizon to know the identity of a toll-free service provider that does not provide a CIC code in the SMS database.[819] In the absence of such an explanation, Verizon's proposal to bill WorldCom for exchange access services Verizon provides to toll-free service providers amounts to little more than a transfer of Verizon's collection problems onto WorldCom. Indeed, Verizon's witness conceded that the appropriate party to be assessed for these services is the toll-free service provider, not WorldCom.[820]

C. Intercarrier Compensation Issues

1. Issue I-5 (Intercarrier Compensation for ISP-Bound Traffic)

a. Introduction

244. The *ISP Intercarrier Compensation Order*, which was issued after the filing of the arbitration petitions in this proceeding, sets forth an interim regime that establishes a gradually declining rate cap on the compensation that carriers may recover for terminating ISP-bound traffic, and a cap with a limited growth factor on the amount of traffic for which any such compensation is owed.[821] Generally speaking, the petitioners propose analogous, detailed

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[816] *See* WorldCom Reply at 63, citing Tr. at 2460.

[817] *See* WorldCom Reply at 63.

[818] We thus adopt WorldCom's November Proposed Agreement, Attach. IV, § 11.2, and reject Verizon's November Proposed Agreement to WorldCom, Intercon. Attach., § 10.2.

[819] *See* Tr. at 2462-63, 2466.

[820] *See* Tr. at 2514-15.

[821] *See Intercarrier Compensation for ISP-Bound Traffic*, CC Docket No. 99-68, Order on Remand and Report and Order, 16 FCC Rcd 9161, 9155-56 para. 7 (2001) ("*ISP Intercarrier Compensation Order*"), *remanded sub nom. WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002). Before release of the order, the petitioners argued in their arbitration petitions that ISP-bound traffic is "local" traffic subject to reciprocal compensation. AT&T Petition, Ex. 1 at 75; WorldCom Petition at 40-41; Cox Petition at 14-15. The Commission later ruled in its *ISP Intercarrier Compensation Order*, however, that ISP-bound traffic is not eligible for reciprocal compensation under section 251(b)(5). *ISP Intercarrier Compensation Order*, 16 FCC Rcd at 9170-71, para. 42. In the wake of that order, the Bureau directed the parties to submit "agreed statements of the issues that must still be arbitrated" if the parties could (continued....)